

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION

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In re:

Chapter 7

**ROSA FERREIRAS &
JOSE FERREIRA**

Case No.: 818-78459 ast

Debtors.

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**NOTICE OF MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §
521(a)(4), DIRECTING THE DEBTORS TO TURN OVER DOCUMENTS,
RECORDS, INFORMATION AND PROPERTY OF THE ESTATE, AND
AWARDING THE TRUSTEE FEES AND COSTS FOR THIS MOTION**

PLEASE TAKE NOTICE that upon the annexed Motion of R. Kenneth Barnard, as Chapter 7 Trustee of the Estate of Rosa Ferreiras & Jose Ferreira, the said Trustee will move this Court before the Honorable Alan S. Trust, United States Bankruptcy Judge, on **May 7, 2019, at 10:30 a.m.**, or as soon thereafter as counsel can be heard, at the United States Bankruptcy Court, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, NY, for an Order, (i) pursuant to 11 U.S.C. § 521(a)(4), directing the Debtors to turn over documents, records, information and property of the estate, including but not limited to their bank statements and 2018 Tax Returns, and (ii) awarding the Trustee fees and costs for this motion, along with such other and further relief as may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that objections or opposition to the Motion shall be filed as follows: (a)(i) through the Bankruptcy Court's electronic filing system (in accordance with General Order No. 559) which may be accessed through the Internet at the Court's website at www.nyeb.uscourts.gov, using Netscape Navigator software version 3.0 or higher, and (ii) in portable document format (PDF) using Adobe Exchange software for conversion; or (b) if a party is unable to file electronically, such party shall submit the objection in PDF format on a diskette in

an envelope with the case name, case number, type and title of document, document number of the document to which the objection or opposition refers, and the file name on the outside of the envelope; or (c) if a party is unable to file electronically or use PDF format, such party shall submit the objection or opposition on a diskette in either Word, WordPerfect, or DOS text (ASCII) format. An objection, or affidavit in opposition filed by a party with no legal representation shall comply with section (b) or (c) as set forth in this paragraph. A hard copy of the objection, whether filed pursuant to section (a), (b) or (c), as set forth in this paragraph, shall be served upon the Trustee's counsel, The Law Offices of R. Kenneth Barnard, 3305 Jerusalem Avenue, Suite 215, Wantagh, New York 11793, the Office of the United States Trustee, Long Island Federal Courthouse, 560 Federal Plaza, Central Islip, New York 11722, and filed with the Clerk of the Bankruptcy Court, with a copy to chambers so as to be received at least 7 days prior to the return date of this Motion.

Dated: Wantagh, New York
April 12, 2019

**LAW OFFICES OF
R. KENNETH BARNARD**
Attorneys for the Trustee

By: *s/ R. Kenneth Barnard*
R. Kenneth Barnard
3305 Jerusalem Avenue
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UNITED STATES BANKRUPTCY COURT
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In re:

Chapter 7

**ROSA FERREIRAS &
JOSE FERREIRA**

Case No.: 818-78459 ast

Debtors.

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**TRUSTEE’S MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §
521(a)(4), DIRECTING THE DEBTORS TO TURN OVER DOCUMENTS,
RECORDS, INFORMATION AND PROPERTY OF THE ESTATE, AND
AWARDING THE TRUSTEE FEES AND COSTS FOR THIS MOTION**

R. Kenneth Barnard, Esq., the Chapter 7 Trustee (the “Trustee”) of the Estate of the Rosa Ferreiras & Jose Ferreiras, hereby seeks the entry of an Order (i) pursuant to 11 U.S.C. § 521(a)(4), directing the Debtors to turn over documents, records, information and property of the estate, including but not limited to their bank statements and 2018 Tax Returns, (ii) awarding the Trustee fees and costs for this motion, and (iii) granting such other and further relief as may seem just and proper.

BACKGROUND

1. On 12/17/18 (the “Filing Date”), the Debtors filed a voluntary Petition for relief pursuant to Chapter 7 of Title 11 of the United States Code (the “Bankruptcy Code”). Thereupon, by Notice of Appointment, R. Kenneth Barnard, Esq., was appointed Chapter 7 Trustee of the estate (the “Trustee”) and has since duly qualified, and has served as the permanent Trustee in this case.
2. Upon examining the Debtors at a §341(a) meeting on 01/23/19, the Trustee discovered that the Debtors are entitled to a tax refund, which is property of the estate.
3. By letter dated 2/6/19, the Trustee requested turn over of the following documents,

information and property of the estate (the "Documents, Information and Property of the Estate") - 2018 Federal and New York State personal tax returns with all attachments and schedules and bank statements showing the balance on the day the bankruptcy petition was filed.

4. The Trustee sent a "Second Request" for the turn over of Documents, Information and Property of the Estate by email on 2/11/19.
5. The Trustee sent a "Third Request" for the turn over of Documents, Information and Property of the Estate by email on 2/25/19.
6. The Trustee sent a "Third Request" for the turn over of Documents, Information and Property of the Estate by email on 3/7/19.
7. Despite the Trustee's numerous requests, the Debtors have not turned over the requested documents, information and/or property of the estate. The Trustee respectfully asserts that the Debtors have a statutory obligation to turn over the documents, information and/or property of the estate he has repeatedly demanded. Section 521 of the Bankruptcy Code, entitled "Debtor's duties" provides: "The debtor shall ... surrender to the trustee all property of the estate and any recorded information including books, documents, records and papers relating to property of the estate " Despite this statutory requirement, the Debtors have not turned over the property.
8. As a consequence of the failure to comply with the Trustee's requests, the Estate has been forced to incur legal fees for the preparation, filing and argument in support of this motion. the Trustee anticipates that those fees and expenses will be not less than \$1,000.00. The estate seeks an award of costs, fees and sanctions of not less than that sum.

WHEREFORE, the Trustee respectfully requests an Order (i) pursuant to 11 U.S.C. §

521(a)(4), directing the Debtors to turn over documents, records, information and property of the estate, including but not limited to their bank statements and 2018 Tax Returns, and (ii) awarding the trustee fees and costs for this motion; and granting the Trustee such other and further relief as to the Court may seem just and proper.

Dated: Wantagh, New York
April 12, 2019

**LAW OFFICES OF
R. KENNETH BARNARD**
Attorneys for the Trustee

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